

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 63 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

DASHRATHSINH @ DASO SHANTUBHA GARASIYA

Versus

STATE OF GUJARAT

Appearance:

MR HR PRAJAPATI for Petitioner

MR DN PATEL LD. AGP for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE B.C.PATEL

Date of decision: 10/03/2000

ORAL JUDGEMENT

The detenu who has been detained under the provisions of the Gujarat Prevention of Anti Social Activities Act, 1985 by an order made by the District Magistrate, Bhavnagar on 30.7.1999 detaining the detenu, has challenged the aforesaid order in this petition under Article 226 of the Constitution of India.

The detenu was served with the grounds of the detention, the copy of which is produced on record vide Annexure-B. Reading the grounds of detention, it is clear that the detenu was prosecuted for the offences punishable under the provisions contained in the Penal Code and was found indulging in committing theft of property and, hence, the offence punishable under sec. 379 of IPC with other offences came to be registered. Four cases have been registered as mentioned in the grounds. Despite the detenu being released on bail he has continued his illegal activities. On account of dangerous activities of the detenu, the people residing in the said locality are feeling insecure. On account of unlawful activities of the detenu, the law and order situation prevailing in the area has been adversely affected.

There are statements of three witnesses, who were so afraid that they were not willing to disclose their names, but only after assuring them that their names shall not be disclosed, they stated before the police that on 15.6.99, 30.5.99 and on 20.4.99 the detenu with his associates rushed to the site with dangerous weapons. It is indicated that the detenu was in habit of taking goods from the vendors and on demand of amount, the detenu used to beat the vendors. On 20.4.99 the detenu demanded sum of Rs. 500/ , from the vendor who refused to part with the amount and thereupon the associates of detenu caught hold of the vendor and from the cash box, Rs. 500/ was removed. Similarly, on 30.5.99 the detenu took out an amount of Rs. 500/ from the pocket of the witness pointing knife and stated the witness that he should not utter a word. Thus, the detaining authority was satisfied that the detenu is a dangerous person.

Without examining the legality of the grounds of detention, this matter is required to be disposed of on the short ground of not considering the representation submitted by the detenu on 20.12.99 in accordance with law. Vide Annexure-C to the petition is the copy of the representation forwarded to the District Magistrate. On behalf of the State Government no affidavit is filed indicating the delay caused in deciding the representation. It appears that after the court took cognisance of the matter on 3.1.2000, the representation was disposed of. In catena of decisions, it is pointed out that the authorities considering the representation of the detenu has to decide the representation as early as possible. If there is any delay, the explanation may be placed before the Court. If the explanation is found

reasonable, even though there is delay in deciding the representation, it could not be said that there is delay in deciding the representation. In the instant case, in absence of affidavit, the contention raised by the detenu is required to be accepted and, therefore, the continued detention is required to be held bad and illegal.

In the result, this petition is allowed. The detenu-Dashrathsinh @ Daso Shantubha Garasiya is ordered to be released forthwith, if not required for any other case. Rule is made absolute with no order as to costs.

mandora/ *****